

within his or her discretion, recall any other witness.

[CGD 91-228, 59 FR 15022, Mar. 30, 1994; 59 FR 45757, Sept. 2, 1994]

#### **§20.204 Withdrawal or disqualification.**

(a) An Administrative Law Judge may at any time disqualify herself or himself.

(b) Prior to the filing of the Administrative Law Judge's decision, either party may move that the Administrative Law Judge disqualify herself or himself on the ground of personal bias or other disqualification, by filing with the Administrative Law Judge promptly upon discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(1) The Administrative Law Judge shall rule upon the motion, stating the grounds for the ruling. If the Administrative Law Judge concludes that the motion is timely and has merit, the Administrative Law Judge shall disqualify herself or himself and withdraw from the proceeding. If the Administrative Law Judge does not disqualify herself or himself and withdraw from the proceeding, the Administrative Law Judge shall proceed with the proceeding, or if a hearing has been concluded, proceed with the issuance of a decision.

(2) An Administrative Law Judge's denial of a motion for disqualification may be appealed to the Commandant at the conclusion of the hearing according to the procedures in subpart J of this part. When the appeal is made, the Administrative Law Judge forwards the motion and supporting affidavits or sworn statements with the ruling to the Commandant.

#### **§20.205 Ex parte communications.**

Ex parte communications are governed by section 557(d) of the Administrative Procedure Act (5 U.S.C. 557(d)).

#### **§20.206 Separation of functions.**

(a) An Administrative Law Judge may not be responsible to or subject the supervision or direction of an officer, employee, or agent engaged in the performance of investigating or prosecuting functions for the Coast Guard.

(b) No officer, employee, or agent of the Coast Guard engaged in the performance of investigations or prosecutorial functions in connection with any class II civil penalty proceeding shall, in that proceeding or one that is factually related, participate or advise in the decision of the Administrative Law Judge or the Commandant on appeal, except as a witness or counsel in the proceeding or appellate review.

[CGD 91-228, 59 FR 15022, Mar. 30, 1994; 59 FR 45757, Sept. 2, 1994]

### **Subpart C—Pleadings and Motions**

#### **§20.301 Representation.**

(a) A party may appear either without counsel or other representatives, by an attorney, or by other duly authorized representative. An attorney or other duly authorized representative shall file a notice of appearance. The notice must indicate—

(1) The name of the case, including docket number if assigned;

(2) The person on whose behalf the appearance is made; and

(3) The person's and representative's mailing addresses and telephone numbers.

(b) Notice, including the items listed in paragraph (a) of this section, must also be given for any withdrawal of appearance.

(c) An attorney shall be a member in good standing of the bar of the highest court of a State, the District of Columbia, or any territory or commonwealth of the United States. A personal representation of membership is sufficient proof, unless otherwise ordered by the Administrative Law Judge.

(d) Any person who is not an attorney shall file a statement setting forth the basis of his or her authority to act as a duly authorized representative. The Administrative Law Judge may deny appearance as a representative to any person whom the Administrative Law Judge finds does not possess the requisite qualifications to represent others or is lacking in character, integrity, or proper personal conduct.